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 16 MICHAEL L. McDONALD and ALAN P. McDONALD

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

19 SAN JOSE DIVISION

E-FILED - 2/6/07

20 COMERICA BANK, a Michigan banking
 21 corporation,

22 Plaintiff,

23 v.

24 MICHAEL L. McDONALD and ALAN P.
 25 McDONALD,

26 Defendants.

27 AND RELATED CROSS-ACTION.

Case No. C 06-03735 RMW (RS)

The Hon. Ronald M. Whyte

**SECOND STIPULATION AND
~~PROPOSED~~ ORDER TO EXTEND
 TIME TO FILE RESPONSIVE
 PLEADING AND TO HEAR MOTION
 TO DISMISS AND STATUS
 CONFERENCE**

Date: March 2, 2007

Time: 9:00 a.m.

Crtrm.: 6

[Complaint Filed: June 12, 2006]

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Plaintiff and Counter-Defendant Comerica Bank ("Plaintiff") and Defendants and Counterclaimants Michael L. McDonald and Alan P. McDonald ("Defendants") hereby stipulate and request a court order as follows:

Defendants filed their First Amended Counterclaim on December 14, 2006.

Following a stipulation ("First Stipulation") to extend the time to do so, Plaintiff filed a motion to dismiss the First Amended Counterclaim.

The hearing on the motion to dismiss and a status conference in this matter were scheduled to take place on February 16, 2007, at 9:00 a.m., but were recently rescheduled by the Court for March 2, 2007, at 9:00 a.m. and 10:30 a.m. respectively.

Pursuant to the First Stipulation, the deadlines for Defendants to file their brief in opposition to the motion to dismiss is January 26, 2007, and the deadline for Plaintiff to file its reply is February 2, 2007.

Plaintiff and Defendants have agreed to amend this briefing schedule as follows, consistent with the new hearing date:

(1) opposition brief due: February 2, 2007

(2) reply brief due: February 16, 2007

Further, the parties request that the status conference be moved to 9:00 a.m. on March 2, 2007, so that it may take place at the same time as the hearing on Plaintiff's motion to dismiss.

Dated: January ~~24~~, 2007

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By /s/ David A. DeGroot
Attorneys for Plaintiff and Counter-defendant
COMERICA BANK

1 Dated: January 24, 2007

2 KELLY, HERLIHY, & KLEIN, L.L.P.

3
4 By /s/ Michael G. Glanzberg
5 Attorneys for Defendants and Counterclaimants
6 MICHAEL L. McDONALD
7 and ALAN P. McDONALD
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1 **[~~PROPOSED~~] ORDER**

2 For good cause shown, the amendment to the briefing schedule on Plaintiff's
3 motion to dismiss proposed by the parties is hereby approved and the stipulated request to
4 conduct the status conference at the same time as the hearing on such motion to dismiss, at
5 9:00 a.m. on March 2, 2007, is granted. Plaintiff's motion to dismiss and the case
6 management conference shall be heard on March 2, 2007, at 9:00 a.m.

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8 Dated: 2/6/07

Ronald M. Whyte

The Honorable Ronald M. Whyte
United States District Judge

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